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UNITED STATES DEPARTMENT OF AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

7 1933 ★
Service and Regulatory Announcements No. 132

REGULATIONS
FOR
WAREHOUSEMEN STORING
CANNED FOODS

Approved April 29, 1932

REGULATIONS OF THE SECRETARY OF AGRICULTURE
UNDER THE UNITED STATES WAREHOUSE
ACT OF AUGUST 11, 1916
AS AMENDED

Issued August, 1932



United States Department of Agriculture

BUREAU OF AGRICULTURAL ECONOMICS

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 132.

REGULATIONS FOR WAREHOUSEMEN STORING CANNED FOODS

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the United States warehouse act, approved August 11, 1916 (39 U. S. Stat. L., p. 486), as amended, I, Arthur M. Hyde, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following rules and regulations to be known as the regulations for warehousemen storing canned foods and to be in force and effect until amended or superseded by rules and regulations which may hereafter be made by the Secretary of Agriculture under said act.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 29th day of April, 1932.



Arthur M. Hyde
Secretary of Agriculture.

Regulation 1. Definitions

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. Words import singular or plural.

SEC. 2. For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean: Terms defined.

Paragraph 1. Canned foods.—Fruits and vegetables sterilized by heat and preserved in hermetically sealed containers. Canned foods.

Par. 2. The act.—The United States warehouse act, approved August 11, 1916 (39 Stat. 446, 486), as amended. The act.

Par. 3. Person.—An individual, corporation, partnership, or two or more persons having a joint or common interest. Person.

Par. 4. Secretary.—The Secretary of Agriculture of the United States. Secretary.

Par. 5. Designated representative.—The Chief of the Bureau of Agricultural Economics of the United States Department of Agriculture. Designated representative.

Par. 6. Chief of the bureau.—The Chief of the Bureau of Agricultural Economics. Chief of the bureau.

Par. 7. Department.—United States Department of Agriculture. Department.

Par. 8. Bureau.—The Bureau of Agricultural Economics of the United States Department of Agriculture. Bureau.

Par. 9. Regulations.—Rules and regulations made under the act by the Secretary. Regulations.

Warehouse.	<i>Par. 10. Warehouse.</i> —Unless otherwise clearly indicated by the context, any suitable building, structure, or other protected inclosure in which canned foods are or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which canned foods are or may be stored and for which a license has been issued under the act.
Warehouseman.	<i>Par. 11. Warehouseman.</i> —Unless otherwise clearly indicated by the context, any person lawfully engaged in the business of storing canned foods and holding a warehouse license.
License.	<i>Par. 12. License.</i> —A license issued under the act by the Secretary.
Licensed warehouseman's bond.	<i>Par. 13. Licensed warehouseman's bond.</i> —A bond required to be given under the act by a licensed warehouseman.
Licensed inspector.	<i>Par. 14. Licensed inspector.</i> —A person licensed under the act by the Secretary to sample, to inspect and/or to certificate the condition of canned foods for storage.
Licensed grader.	<i>Par. 15. Licensed grader.</i> —A person licensed under the act by the Secretary to grade and certificate the grade of canned foods for storage.
Receipt.	<i>Par. 16. Receipt.</i> —A licensed warehouse receipt issued under the act, unless otherwise specified.
Case.	<i>Par. 17. Case.</i> —The number of cans filled with fruits or vegetables which, depending upon the size of the cans, would be needed to make the equivalent in contents of a unit commonly known as a case of 24 No. 2 cans. For the purpose of these regulations the products may be either cased or uncased.
State.	<i>Par. 18. State.</i> —A State, Territory, or District of the United States.

Regulation 2. Warehouse Licenses

Application form.	SECTION 1.—Applications for licenses or for amendments of licenses under the act shall be made to the Secretary upon forms prescribed for the purpose and furnished by the bureau, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary, or his designated representative, shall find to be necessary to the consideration of his application.
Grounds for not issuing license.	SEC. 2. A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of canned foods, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and these regulations, or that there is any other sufficient reason within the intent of the act for not issuing such license.
Net assets required.	SEC. 3. Any warehouseman conducting a warehouse licensed or for which application for license has been made shall have and maintain above all exemptions and liabilities net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least 20 cents per case of the maximum number of cases that the warehouse will accommodate when stored in the manner customary to the warehouse as determined by the chief of the bureau, except that the amount of such assets shall not be less than \$5,000, and need not be more than \$100,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock, as such, shall not be considered a liability. A deficiency in required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with regulation 3, section 2, paragraph 2, but in no event may a warehouseman be licensed who has not at least \$5,000 net assets.

SEC. 4. Immediately upon receipt of his license or of any amendment thereto, the warehouseman shall post the same, and thereafter, except as otherwise provided in these regulations, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

License shall be posted.

SEC. 5. Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing, suspend or cancel the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing when possible has been afforded in the manner prescribed in this section, revoke a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent; (b) has parted, in whole, or in part, with his control over the licensed warehouse; (c) is in process of dissolution or has been dissolved; (d) has ceased to conduct such licensed warehouse; or (e) has in any other manner become incompetent or incapacitated to conduct the business of the warehouse. Whenever any of the conditions mentioned in subdivisions (a) to (e) of this section shall come into existence it shall be the duty of the warehouseman to notify immediately the chief of the bureau of the existing condition. Before a license is revoked for any violation of, or failure to comply with, any provisions of the act, or of these regulations, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with regulation 10, section 4.

Suspension or revocation of warehouse licenses.

SEC. 6. When a license issued to a warehouseman terminates or is suspended or revoked by the Secretary, or his designated representative, it shall be returned to the bureau. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon and it shall be returned to the licensed warehouseman to whom it was originally issued, and it shall be posted as prescribed in section 4 of this regulation: *Provided*, That in the discretion of the chief of the bureau a new license may be issued.

Return of terminated or revoked warehouse license.

SEC. 7. Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman a duplicate thereof, or a new license, may be issued under the same number.

Lost or destroyed warehouse license.

SEC. 8. No warehouse or its warehouseman shall be designated as licensed under the act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

Unlicensed warehousemen must not represent themselves as licensed.

Regulation 3. Warehouse Bonds

SECTION 1. Unless the warehouseman has previously filed with the Secretary the necessary bond required by section 2 of this regulation, he shall file such bond within a time, if any, specified by the Secretary, or his designated representative, such bond to cover all obligations arising thereunder during the period of the license.

Time of filing.

SEC. 2. *Paragraph 1.* Exclusive of any amount which may be added in accordance with paragraphs 2 and 3 of this section, the amount of such bond shall be at the rate of 20 cents per case of canned foods of the maximum number of cases that the warehouse

Amount based on storage capacity.

will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the chief of the bureau, but not less than \$5,000 nor more than \$50,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and these regulations for said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under this regulation.

Additional amount for deficiency in net assets.

Par. 2. In case of a deficiency in net assets under regulation 2, section 3, there shall be added to the amount of the bond fixed in accordance with paragraph 1 of this section an amount equal to such deficiency.

Additional amount for special conditions.

Par. 3. If the Secretary, or his designated representative, finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs 1 and 2 of this section a further amount, fixed by him, to meet such conditions.

Amendment to license and additional bond.

SEC. 3. If application is made under regulation 2, section 1, for an amendment to a license and no bond previously filed by the warehouseman under this regulation covers obligations arising during the period of such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that his application for such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act, unless bond in sufficient amount has been filed since the filing of such application. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and these regulations, may be filed in lieu of a new bond.

New bond required to continue license beyond one year.

SEC. 4. Whenever a continuous form of license has been issued, such license shall not be effective beyond one year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary, or his designated representative, prior to the date on which that license would have expired had it been issued for but one year, subject to the provisions of section 3 of this regulation.

Approval of bond.

SEC. 5. No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of the act and these regulations until it has been approved by the Secretary, or his designated representative.

Regulation 4. Warehouse Receipts

Contents of negotiable and nonnegotiable receipts.

SECTION 1. Paragraph 1. Every receipt, whether negotiable or nonnegotiable, issued for canned foods stored in a warehouse shall, in addition to complying with the requirements of section 18 of the act, embody within its written or printed terms the following: (a) The name of the licensed warehouseman and the designation, if any, of the warehouse; (b) the license number of the warehouse; (c) a statement whether the warehouseman is incorporated or unincorporated, and if incorporated, under what laws; (d) in the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship; (e) the lot number given to each lot of canned foods, in accordance with regulation 5, section 9; (f) a statement conspicuously placed, whether or not the canned foods are insured, and if insured, to what extent, by the warehouseman against loss by fire, lightning, or tornado; (g) a blank space

designated for the purpose in which the kind of canned foods shall be stated; (*h*) a blank space where the code, can, or other identifying marks may be stated; (*i*) blank spaces where statements may be made indicating whether the canned foods are cased or uncased, labeled or unlabeled, and if labeled, the principal title of the label; (*j*) the number of cases and size of containers or cans; (*k*) the words "Negotiable" or "Nonnegotiable"; and (*l*) whether the receipt is an "original," "duplicate," or "copy," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon.

Par. 2. Every receipt, whether negotiable or nonnegotiable, issued for canned foods stored in a warehouse shall specify a period, not exceeding one year, for which the canned foods are accepted for storage under the act and these regulations. Upon demand and surrender of the old receipt by the lawful holder thereof at or before the expiration of the period specified, the warehouseman, upon such lawful terms and conditions as may be granted by him to other depositors of canned foods in his warehouse, if he then continues to act as a licensed warehouseman, may issue a new receipt for a further specified period not exceeding one year; provided it is actually determined by a licensed inspector that the canned foods have not deteriorated and that they are in proper condition for storage for another year.

Par. 3. The grade stated in a receipt issued for canned foods shall be stated as determined by a licensed grader who graded the canned foods on the basis of samples actually drawn not more than 10 days preceding the issuance of such receipt, and such receipt shall embody within its written or printed terms the following: (*a*) That the canned foods covered by the receipt were inspected and graded by a licensed inspector and grader, and (*b*) a form of indorsement which may be used by the depositor, or his authorized agent, for showing the ownership of, and liens, mortgages, or other encumbrances on the canned foods covered by the receipt.

Par. 4. Whenever the grade of canned foods is stated in a receipt issued for canned foods stored in a warehouse, such grade shall be in accordance with regulation 8.

Par. 5. If a warehouseman issues a receipt omitting the statement of grade on request of the depositor as permitted by section 18 of the act, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor."

Par. 6. If a warehouseman issues a receipt under the act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

Sec. 2. Either actual copies or skeleton copies of all receipts shall be made, and all copies, except skeleton copies or those issued in lieu of the original, in case of lost or destroyed receipts, shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not negotiable."

Sec. 3. Paragraph 1. In case of a lost or destroyed receipt, another receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out in paragraph 2 of this section.

Par. 2. Before issuing such duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (*a*) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and, if lost, that diligent effort has been made to find the receipt without success; and (*b*) a bond in amount double the value, at the time the bond is given, of the

Storage period.

Additional contents of receipt.

Statement of grade of canned foods.

When grade omitted, receipt must be marked.

Blank spaces in receipt to be filled in.

Copies of receipts.

Lost or destroyed receipts.

Affidavit of loss or destruction of receipts.

canned foods represented by the lost or destroyed receipt. Such bond shall be in the form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon preferably a surety company which is authorized to do business and is subject to service of process in a suit on the bond in the State in which the warehouse is located, or at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the amount of the bond.

Approval of form and printing of receipts.

SEC. 4. No receipt shall be issued by a licensed warehouseman except it be (1) in the form prescribed by the chief of the bureau; (2) upon distinctive paper specified by him; (3) printed by a printer with whom the United States has a subsisting contract and bond for such printing; and (4) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper.

Partial delivery of canned foods.

SEC. 5. If a warehouseman deliver a part only of a lot of canned foods for which he has issued a negotiable receipt under the act he shall take up and cancel such receipt and issue a new receipt in accordance with these regulations for the undelivered portion of the canned foods. The new receipt shall show the date of issuance and also indicate the number and date of the old receipt.

Return of negotiable receipts necessary before delivery of canned foods. Written order necessary before canned foods covered by nonnegotiable receipt can be delivered.

SEC. 6. Except as permitted by law or by these regulations, a warehouseman shall not deliver canned foods for which he has issued a negotiable receipt until the receipt has been returned to him and canceled, and shall not deliver canned foods for which he has issued a nonnegotiable receipt until such receipt has been returned to him or he has obtained from the person lawfully entitled to such delivery, or his authorized agent, a written order therefor.

Persons to whom nonnegotiable receipts are issued must furnish warehouseman with names and signatures of parties empowered to make releases.

SEC. 7. Each person to whom a nonnegotiable receipt is issued shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of canned foods covered by such receipt, together with the bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of canned foods covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release and that the signature of the releasing party is genuine.

Warehouseman not to attempt to compel grade to be omitted.

SEC. 8. No warehouseman shall, directly or indirectly, by any means whatsoever, compel or attempt to compel, the depositor of any canned foods stored in his licensed warehouse to request the issuance of a receipt omitting the statement of grade.

Regulation 5. Duties of Licensed Warehouseman

Canned foods must be inspected by licensed inspector.

SECTION 1. No licensed warehouseman shall receive canned foods into his licensed warehouse for storage and issue a receipt therefor unless an inspector licensed under this act has examined them and found them to be in proper condition for storage not more than 10 days prior to the issuance of such receipt. Under no conditions shall swells, springers, leakers, or rusty cans, or any canned foods known to be in violation of either State or Federal food and drug laws be accepted for storage.

Insurance against fire, lightning, or tornado.

SEC. 2. Paragraph 1. Each warehouseman, when so requested in writing by the depositor or the lawful holder of the receipt for canned foods, shall, to the extent to which, in the exercise of due diligence, he is able to procure such insurance, keep such canned foods while in his custody insured in his own name, or arrange for their insurance otherwise, to the extent so requested,

against loss or damage by fire, lightning, or tornado. When insurance is not carried in the warehouseman's name the receipt shall show that the canned foods are not insured by him. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business, and subject to service of process in suits brought, in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall, orally or by telegraph or by telephone and at his own expense, immediately notify the person making the request. Nothing in this section shall be construed to prevent a warehouseman from adopting a rule that he will insure all canned foods.

Par. 2. Each warehouseman shall keep exposed conspicuously in the place prescribed by regulation 2, section 4, and at such other place as the chief of the bureau, or his representative, may from time to time designate, a notice stating briefly the conditions under which canned foods will be insured against loss or damage by fire, lightning, or tornado.

Notice regarding insurance to be posted.

Par. 3. Each warehouseman shall take promptly such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of these regulations, and shall, as soon as collected, pay promptly to the persons concerned any portion of such moneys which they may be entitled to receive from him.

Warehouseman to collect and pay insurance.

SEC. 3. Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of these regulations, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable report as may be provided for in such contracts.

Premiums, inspection, and reports.

SEC. 4. Each warehouseman shall at all times exercise such care in regard to the canned foods in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

Care of canned foods in licensed warehouses.

SEC. 5. If at any time a warehouseman shall handle canned foods other than for storage, or shall handle or store any other commodity, he shall so protect the same and otherwise exercise such care with respect to them as not to endanger the canned foods in his custody as a licensed warehouseman or impair his ability to meet his obligations and perform his duties under the act and these regulations. If the warehouseman shall store commodities other than those for which he is licensed, a nonlicensed receipt shall be issued, which shall contain in its terms a provision that said commodities are accepted for storage only until such time as the space which they may occupy may be needed for products for the storage of which the warehouseman is licensed. Under no circumstances shall any commodities for the storage of which the warehouseman is not licensed be stored if the storage of such commodities might adversely affect the commercial value of or impair the insurance on canned foods covered by licensed receipts.

Care of nonlicensed canned foods or other commodities.

SEC. 6. Each warehouseman shall provide a metal fireproof safe, a fireproof vault, or a fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the warehouse, including his receipt books, copies of receipts issued, and canceled receipts, except that with the written consent of the chief of the bureau, or his representative, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety approved by the chief of the bureau or his representative. All canceled receipts shall be arranged by the warehouseman in numerical order as soon as possible after their cancellation and shall be preserved in numerical order thereafter.

Records to be kept in safe places.

Warehouse charges.

SEC. 7. A warehouseman shall not make any unreasonable or exorbitant charge for service rendered. Before a license to conduct a warehouse is granted under the act the warehouseman shall file with the bureau a dated copy of his rules and schedule of charges to be made by him if licensed. Before making any change in such rules or schedule of charges, he shall file with the bureau a statement in writing showing the proposed change and the reasons therefor. Each warehouseman shall keep exposed conspicuously in the place prescribed by regulation 2, section 4, and at such other places, accessible to the public, as the chief of the bureau or his representative may from time to time designate, a copy of his current rules and schedule of charges.

Business hours.

SEC. 8. *Paragraph 1.* Each warehouse shall be kept open for the purpose of receiving canned foods for storage and delivering canned foods out of storage every business day for a period of not less than six hours between the hours of 8 a. m. and 6 p. m., except as provided in paragraph 2 of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open, except when such office or warehouse is kept open continuously from 8 a. m. to 6 p. m.

Closing of warehouse.

Par. 2. If the warehouse is not to be kept open as above required, the notice shall state the period during which it is to be closed and the name and address of an accessible person authorized to make delivery upon lawful demand and surrender of the receipt.

Each lot to be numbered and stack card affixed.

SEC. 9. Each warehouseman shall, upon acceptance for storage of any lot of canned foods, so store the same that the identity of the lot will be preserved. To each lot of canned foods he shall assign a lot number and shall affix a stack card or identification tag, which shall be at all times visible and shall identify the lot.

Information to be shown on stack card.

SEC. 10. The warehouseman shall indicate on the stack card or identification tag mentioned in section 9 of this regulation (a) the lot number assigned to the lot of canned foods; (b) the number of cases in the lot; (c) the size of the cans or containers; (d) the can, code, or other identifying marks on the cans, if any; (e) the number of the receipt issued covering the lot; (f) the date they entered storage; (g) the kind and grade of canned foods, when grade is determined.

System of accounts.

SEC. 11. Each warehouseman shall use for his warehouse a system of accounts, approved for the purpose by the chief of the bureau, or his authorized representative, which shall show for each lot of canned foods the name and address of the depositor, the lot number mentioned in section 9 of this regulation, the can, code, or other identifying marks of the lot, the number of cases, size of containers, the grade, when grade is required to be or is ascertained, the dates received for and delivered out of storage, the receipts issued and canceled, a separate record for each depositor, and such accounts shall include a detailed record of all moneys received and disbursed and of all effective insurance policies.

Reports.

SEC. 12. Each warehouseman shall, from time to time, make such reports as the bureau may require, on forms prescribed and furnished for the purpose by the bureau, concerning the condition, contents, operation, and business of the warehouse.

Copies of reports to be kept.

SEC. 13. Each warehouseman shall keep on file, as a part of the records of the warehouse, for such period as may be prescribed by the bureau, an exact copy of each report submitted by such warehouseman under this regulation.

Canceled receipts to be forwarded to bureau for auditing.

SEC. 14. Each warehouseman, when requested by the bureau, shall forward his canceled receipts for auditing to Washington or to such field offices of the bureau as may be designated from time to time. For the purpose of this section, only such portion as the bureau may designate of each canceled receipt, numbered to correspond with the actual receipt number, need be submitted.

SEC. 15. Each warehouseman shall permit any officer or agent of the department, including inspectors under the Federal food and drugs act, authorized by the Secretary for the purpose, to enter and inspect or examine at any time any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and shall furnish such officer or agent, when he so requests, the assistance necessary to enable him to make such inspection or examination under this section.

Inspections and examinations of warehouses.

SEC. 16. The apparatus used for determining the weight, quantity, or quality stated in a receipt or certificate shall be subject to examination by any officer or agent of the department employed for such purpose. If the bureau shall disapprove such apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight, quantity, or quality of canned foods for the purposes of the act and these regulations.

Inspection of weighing, testing, and measuring apparatus.

SEC. 17. Each warehouseman shall keep the stock stored in his licensed warehouse in an orderly manner, shall provide sufficient aisle space so as to permit easy and ready access to any and all lots of canned foods stored therein, and shall so store each lot as to facilitate sampling of canned foods and inspection for condition. The warehouseman shall at all times keep his warehouse clean.

Care of warehouses.

SEC. 18. The warehouseman shall not stack or cause to be stacked canned foods generally known as acid products in close proximity to steam or hot-water radiators or immediately under a metal roof.

Not to be stored near radiators or tin roofs.

SEC. 19. The warehouseman shall take such steps as can be consistently taken to so ventilate his storage that a uniformly cool temperature will be maintained in his warehouse.

Proper ventilation necessary.

SEC. 20. The warehouseman shall provide heat when necessary to avoid freezing.

Must heat to prevent freezing. Signs of tenancy to be posted.

SEC. 21. *Paragraph 1.* Every warehouseman operating a "field" or "custodian" warehouse shall, during the life of his license, display and maintain appropriate signs on the licensed warehouse, both on the inside and on the exterior walls of the warehouse, and particularly on doors and usual places of entry, in such a manner as will ordinarily be calculated to give the public correct notice of his tenancy of all buildings or parts thereof included in his license.

Par. 2. Such signs shall be of such size and design as to readily attract the attention of the public and shall include the following: (a) The name and license number of the licensee; (b) the name of the warehouse; (c) whether the warehouseman is owner or lessee; and (d) the words "Public Warehouse."

Wording of signs.

Par. 3. Such other wording or lettering may appear in the sign or signs not inconsistent with the purpose of the act and these regulations, subject to the approval of the bureau.

Other wording permitted.

Par. 4. Immediately upon its expiration, suspension, or revocation all reference to the license shall be removed from the warehouse.

Removal of signs at expiration, suspension, or revocation of a license. Other signs prohibited.

Par. 5. No sign indicating control, tenancy, or ownership of a licensed warehouse by any person other than the licensee shall appear on any such warehouse.

SEC. 22. If the warehouseman considers that any canned foods in his warehouse are out of condition, or becoming so, he shall direct the licensed inspector to examine the canned foods in question, and, if such inspector finds such canned foods to be out of condition or becoming so, the warehouseman shall give immediate notice of the facts in the manner and to the persons specified in section 23, paragraphs 1, 2, and 3 of this regulation.

Procedure to handle deteriorating canned foods.

SEC. 23. *Paragraph 1.* The notice required by section 22 of this regulation shall state (a) the warehouse in which the canned foods are stored; (b) the quantity, kind, and grade of the canned foods at the time the notice is given; (c) the actual condition of

Contents of notice.

the canned foods as nearly as can be ascertained, and the reason, if known, for such condition; and (d) the outstanding receipts covering the canned foods in question, giving the number and date of each such receipt and the quantity, the kind, and grade of the canned foods as stated in each such receipt.

Persons to whom notice shall be sent.

Par. 2. A copy of such notice shall be delivered in person or shall be sent by mail (a) to the persons holding the receipts if known to the warehouseman; (b) to the person who originally deposited the canned foods; (c) to any other persons known by the licensed warehouseman to be interested in the canned foods; (d) to the chief of the bureau; and (e) public notice shall also be given by posting a copy of such notice at the place where the warehouseman is required to post his license. If the holders of the receipts and the owners of the canned foods are known to the warehouseman and can not in the regular course of the mails be reached within 12 hours, the warehouseman shall, whether or not requested so to do, also immediately notify such persons by telegraph or telephone at their expense.

Record of persons interested in receipt for canned foods.

Par. 3. Any person interested in any canned goods or the receipt covering such canned foods stored in a licensed warehouse may, in writing, notify the warehouseman of his interest, and such warehouseman shall keep a record of that fact. If such person requests in writing that he be notified regarding the condition of any such canned foods and agrees to pay the cost of any telegraph or telephone toll charge, such warehouseman shall notify such person in accordance with such request.

If products not disposed of warehouseman to wire bureau.

Par. 4. If the canned foods advertised in accordance with the requirements of this regulation have not been disposed of by the owner thereof within five days from the dispatch of notice of their being out of condition, the warehouseman may sell the same at public auction at the expense and for the account of the owner. Before such sale the warehouseman shall consult with proper State and Federal officials administering food and drug laws to ascertain whether the sale of the canned foods might violate either the State or Federal law.

Warehouseman not relieved from exercising usual care at all times.

Par. 5. Nothing contained in this section shall be construed as relieving the warehouseman from properly caring for any canned foods after sending notification of their condition in accordance with this section.

Excess storage.

Sec. 24. If at any time a warehouseman shall be offered for storage in his warehouse canned foods in excess of the licensed capacity as shown on his license, he shall not accept such canned foods until he has first secured authority through an amended license, and after such authority has been granted, the warehouseman shall continue to so arrange the canned foods as not to obstruct free access thereto and the proper use of sprinklers or other fire-protection equipment provided for such warehouse.

Removal of canned foods from storage.

Sec. 25. Except when it may be necessary to protect the canned foods due to an emergency, or as may be permitted by law or these regulations, a warehouseman shall not remove any canned foods from the warehouse, or the part thereof designated in the receipt, unless such receipt is first surrendered and canceled. If any canned foods are removed from the warehouse prior to the return and cancellation of the receipt, the warehouseman shall immediately notify the chief of the bureau of such removal and the necessity therefor.

Fire loss to be reported by telegraph.

Sec. 26. If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately by telegraph to the chief of the bureau the occurrence of such fire and the extent of damage.

Copies of inspection certificates to be filed.

Sec. 27. When an inspection or grade certificate has been issued by a licensed inspector or grader, a copy of such certificate shall be filed with the warehouseman in whose warehouse the canned foods covered by such certificate are stored, and such certificate shall become a part of the records of the warehouseman.

SEC. 28. Each warehouseman shall file with the department the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouseman, and shall promptly notify the department of any changes as to persons authorized to sign, and shall file signatures of such persons.

Signatures of persons to sign receipts to be filed with department.

Regulation 6. Fees

SECTION 1. There shall be charged, assessed, and collected a fee of \$10 for each warehouseman's license or any amendment thereto, and a fee of \$3 for each license issued to each inspector and/or grader.

Warehouse license fees.

SEC. 2. There shall be charged, assessed, and collected for each original examination or inspection of a warehouse under the act, when such examination or inspection is made upon application by a warehouseman, a fee at the rate of \$1 for each 2,000 cases of the storage capacity, or fraction thereof, determined in accordance with regulation 3, section 2, paragraph 1, but in no case less than \$10 nor more than \$200, and for each reexamination or reinspection applied for by such warehouseman a fee based on the extent of the reexamination or reinspection, proportioned to but not greater than that prescribed for the original examination or inspection.

Warehouse inspection fees.

SEC. 3. Before any warehouseman's license, or amendment thereto, or any inspector's and/or grader's license is granted, or before an original examination or reexamination applied for by a warehouseman is made, the warehouseman, the inspector, and/or grader shall deposit with the bureau the amount of the fee prescribed therefor. Such deposit shall be made in the form of a check, certified if required by the bureau, or post office or express money order, payable to the order of "Disbursing Clerk, U. S. Department of Agriculture."

Advance deposit.

SEC. 4. The disbursing clerk of the department shall hold in his custody each advance deposit made under this regulation until the fee, if any, is assessed and he is furnished by the bureau with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

Return of excess deposit.

Regulation 7. Licensed Inspectors and Graders

SECTION 1. Paragraph 1. Application for licenses to inspect and/or grade canned foods under the act shall be made to the chief of the bureau on forms furnished for the purpose by him.

Licensed inspectors and/or graders.

Par. 2. Each such application shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by (a) satisfactory evidence that he has passed his twenty-first birthday; (b) the name and location of a warehouse or warehouses licensed, or for which application for license has been made under the act, in which canned foods sought to be inspected and/or graded under such license are or may be stored; (c) a statement from the warehouseman conducting such warehouse showing whether the applicant is competent and is acceptable to such warehouseman for the purpose; (d) satisfactory evidence that he has had at least two years' experience in the inspection and/or grading of the kind of canned foods for which a license is sought or the equivalent of such experience, and that he is competent to perform such services; (e) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as the same may relate to him; and (f) such other information as the bureau may deem necessary, provided that when an application for a license to inspect and/or grade canned foods is filed by a person who does not intend to serve any one licensed warehouseman but who does intend to inspect and/or grade canned foods stored or

Application forms.

Contents.

to be stored in a licensed warehouse or warehouses and to issue inspector's and/or grader's certificates therefor, as provided for by the act and these regulations, independent of the warehouse receipts issued to cover such canned foods, it shall not be necessary to furnish such statement as is required by subdivision (c) of this paragraph.

Applicant must
furnish additional information if requested.
Examination.

Par. 3. The applicant shall at any time furnish such additional information as the Secretary, or his designated representative, shall find to be necessary to the consideration of his application.

Sec. 2. Each applicant for a license as an inspector and/or grader and each licensed inspector and/or grader shall, whenever requested by an authorized agent of the department, submit to an examination or test to show his ability properly to perform the duties for which he is applying for license or for which he has been licensed.

Posting of
license.

Sec. 3. Each licensed inspector and/or grader shall keep his license conspicuously posted in the office where all or most of the inspecting is done.

Duties of inspectors and/or graders.

Sec. 4. Each inspector and/or grader, when requested, shall, without discrimination, as soon as practicable, and upon reasonable terms, inspect and/or grade and certificate the condition, and/or grade, of canned foods stored or to be stored in a licensed warehouse if such canned foods be offered to him under such conditions as permit proper inspection, and/or grading, and the determination of the condition and/or grade thereof, as the case may be. Each such licensee shall give preference to persons who request his services as such over persons who request his services in any other capacity. No inspection and/or grade certificate shall be issued under the act for canned foods not stored or not to be stored in a licensed warehouse.

Inspection and/or grade certificate.

Sec. 5. Each inspection and/or grade certificate issued under the act by a licensed inspector or grader shall be in a form approved for the purpose by the bureau and shall embody within its written or printed terms (a) the caption "United States Warehouse Act Canned Foods Inspection and/or Grade Certificate"; (b) whether it is an original, duplicate, or other copy; (c) the name and location of the warehouse in which the canned foods are or are to be stored; (d) the date of the certificate; (e) the location of the canned foods at the time of the inspection and/or grading; (f) the identification or lot number of each lot of canned foods in accordance with regulation 5, section 9; (g) the number of cases in the lot; (h) the number of cans in each case and size of cans; (i) the grade of the canned foods; (j) the kind of canned foods; (k) the can or code marks of each lot, if any; (l) the title of the principal label, if labeled; (m) that the certificate is issued by a licensed inspector and/or grader under the United States warehouse act and regulations thereunder; (n) a blank space in which any general remarks on the condition, grade, or other pertinent information may be shown; (o) any other matter not inconsistent with the act or these regulations, provided the approval of the bureau is first obtained; (p) the signature of the licensed inspector, and/or grader. Under no circumstances shall certificates be issued for products known to be in violation of Federal or State food and drugs laws.

Copies of certificates to be kept.

Sec. 6. Each licensed inspector and/or grader shall keep for a period of one year in a place accessible to persons financially interested in the canned foods a copy of each certificate issued by him under these regulations and shall file a copy of each such certificate with the warehouse in which the canned foods covered by the certificate are stored.

Licensees to permit and assist in examination.

Sec. 7. Each licensed inspector and/or grader shall permit any officer or agent of the department, authorized by the Secretary, or his designated representative, for the purpose, to inspect or examine at any time his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations, and shall with the consent of the warehouseman concerned, assist any such officer or agent in the inspection or examination of records mentioned in regulation 5, section 11, as far

as any such inspection or examination relates to the performance of the duties of such licensed inspector and/or grader under the act and these regulations.

SEC. 8. Each licensed inspector and/or grader shall, from time to time, when requested by the bureau, make reports on forms furnished for the purpose by the bureau, bearing upon his activities as such licensed inspector and/or grader.

SEC. 9. Pending investigation, the Secretary, or his designated representative, may, whenever he deems necessary, suspend the license of an inspector and/or grader temporarily without hearing. Upon a written request and a satisfactory statement of reasons therefor, submitted by the licensed inspector and/or grader, or when the inspector and/or grader has ceased to perform such services at the warehouse, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such inspector and/or grader. The Secretary, or his designated representative, may, after opportunity for hearing, when possible, has been afforded in the manner prescribed in this section, suspend or revoke a license issued to an inspector and/or grader when such inspector and/or grader has in any manner become incompetent or incapacitated to perform the duties of a licensed inspector and/or grader. As soon as it shall come to the attention of a warehouseman that any of the conditions mentioned in this section exist, it shall be his duty to notify in writing the bureau. Before the license of any inspector and/or grader is suspended or revoked pursuant to section 12 of the act such licensee shall be furnished by the Secretary, or by his designated representative, a written statement specifying the charges, and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with regulation 10, section 4.

Suspensions or revocations of inspector's and/or grader's licenses.

SEC. 10. *Paragraph 1.* If a license issued to an inspector and/or grader is suspended or revoked by the Secretary, or his designated representative, it shall be returned to the Secretary. At the expiration of any period of suspension of a license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the inspector and/or grader to whom it was originally issued, and it shall be posted as prescribed in section 3 of this regulation, provided that in the discretion of the chief of the bureau a new license may be issued without reference to such suspension.

Return of suspended or revoked inspector's and/or grader's license.

Par. 2. Any license issued to an inspector and/or grader, shall automatically terminate as to any warehouse whenever the license of such warehouse shall expire or shall be suspended or revoked. Thereupon the license of such inspector and/or grader shall be returned to the Secretary. If such license is applicable to warehouses other than those for which the licenses have been suspended or revoked, the Secretary, or his designated representative, shall issue a new license to the inspector and/or grader, omitting the names of the warehouses for which licenses have been so suspended or revoked. Such new licenses shall be posted as prescribed in section 3 of this regulation.

License terminates with warehouse license.

SEC. 11. Upon satisfactory proof of the loss or destruction of a license issued to an inspector and/or grader, a duplicate thereof may be issued under the same number.

Lost or destroyed inspector's and/or grader's license.

SEC. 12. No person shall in any way represent himself to be an inspector and/or grader under the act unless he holds an unsuspended or unrevoked license under the act.

Unlicensed inspectors and/or graders must not represent themselves as licensed.

Regulation 8. Canned Foods Inspection, Grading, and Classification

SECTION 1. Whenever the kind, grade, or other class or condition of canned foods is required to be or is stated for the purpose of this act and these regulations, it shall be stated in accordance with this regulation.

Kind, grade, and condition to be stated in accordance with regulations.

Standards to be used.

SEC. 2. Until such time as official marketing grades of the United States have been promulgated and are in effect, for the purpose of administering this act and these regulations, the kind and grade of canned foods shall be stated as far as applicable (a) in accordance with any tentative standards of the department; (b) in the absence of Federal standards in accordance with the State standards, if any, established in the State in which the warehouse is located; (c) in the absence of any State standards, in accordance with the standards, if any, adopted by any canned foods organization or by the canned foods trade generally in the locality in which the warehouse is located, subject to the disapproval of the chief of the bureau; or (d) in the absence of the aforesaid standards in accordance with any standards approved by the chief of the bureau.

Statement of kind, grade, and condition.

SEC. 3. Whenever the kind, grade, or other class or condition of canned foods is stated for the purposes of this act and these regulations, the terms used shall be correctly applied and shall be so selected as not to convey a false impression of the canned foods. In case of doubt as to the kind, grade, or condition of a given lot of canned foods, a determination shall be made of such facts by drawing samples fairly representative of the contents of the lot of canned foods offered for storage.

Regulation 9. Appeal of Grades

Method of appeal in case of dispute.

SECTION 1. *Paragraph 1.* If a question arises as to whether the kind, grade, or condition of the canned foods was correctly stated in a receipt or grade certificate issued under the act or these regulations, the warehouseman concerned or any person financially interested in the canned foods involved may, after reasonable notice to the other party, submit the question to the chief of the bureau, who may appoint a committee to make a determination. The decision of the committee shall be final, unless the chief shall direct a review of the question. Immediately upon making its decision, the committee shall issue a certificate embodying its findings to the appellants and to the licensee or licensees involved.

New receipts or certificates to be issued.

Par. 2. If the decision of the committee be that the kind, grade, or condition was not correctly stated, the receipt or certificate involved shall be returned to and be canceled by the licensee who issued it, and the licensee shall issue in lieu thereof a new receipt or certificate embodying therein the statement of kind, grade, or condition in accordance with the findings of the committee.

Assessment of expenses.

Par. 3. All necessary and reasonable expenses of such determination shall be borne by the losing party, unless the chief of the bureau or his representative shall decide that the expense should be prorated between the parties.

Regulation 10. Miscellaneous

Regulations applicable to State warehouses.

SECTION 1. Every person applying for a license or licensed under section 9 of the act, shall, as such, be subject to all portions of these regulations except regulation 2, section 3, so far as they may relate to warehousemen. If there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of canned foods and to store the same in any of said warehouses, may, in lieu of a bond or bonds, complying with regulation 3, sections 1 and 2, file with the Secretary a single bond meeting the requirements of the act and these regulations, in such form and in such amount not less than \$5,000 as he shall prescribe, to insure the performance by such person with respect to the acceptance of the custody of canned foods and their storage in the warehouses in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses or amendments thereto. In fixing the amount

of such bond consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary, or his designated representative, shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed a further amount, fixed by him, to meet such conditions.

SEC. 2. Publications under the act and these regulations shall be made in such media as the chief of the bureau may from time to time designate. Publications.

SEC. 3. Every person licensed under the act shall immediately furnish the bureau any information which comes to the knowledge of such persons tending to show that any provision of the act or these regulations has been violated. Violations of act and the regulations to be reported.

SEC. 4. For the purpose of a hearing under the act and these regulations, except regulation 9, the licensee involved shall be allowed a reasonable time, fixed by the Secretary, or his designated representative, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before, and at a time and place fixed by, the Secretary, or his designated representative. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held, when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the Secretary, or his designated representative. Every written entry in the records of the department made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the department. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section. Procedure in hearings.

SEC. 5. A license may be issued for the storage of two or more agricultural products in a single warehouse or in one or more compartments in the same warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the chief of the bureau. One document and one license to cover several products.

SEC. 6. Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the chief of the bureau in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees applicable to the particular compartment or compartments to be licensed. Amount of assets and bond needed for combination warehouses.

SEC. 7. Any amendment to, or revision of, these regulations, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act. Amendments.





